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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001390

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E.O. 12958: DECL: 03/04/2013
TAGS: [EINV](#) [ENRG](#) [ECON](#) [PREL](#) [TU](#)
SUBJECT: GOT PRESSES BOT COMPANIES TO CUT PRICES

REF: ANKARA 8594 ,02

Classified by ECON Couns Scot Marciel, reasons 1.5 (b,d).

1. (C) Summary: Energy Minister Guler has asked the BOT projects to cut their electricity tariffs, which are set in the companies, contracts with the Ministry of Energy (MENR). The BOTs, which include U.S.-owned companies Trakya Elektrik (Enron) and Doga Enerji (Edison Mission), have informed the Minister in writing that they are not prepared to change their contracts. MENR officials argue that the BOT prices are too high; the companies counter that their prices accurately reflect the risks and costs assumed at the time of their investment. Post will continue to emphasize to the GOT the importance of contract sanctity. End summary.

2. (C) Minister of Energy Guler called in the BOT projects February 6, including U.S.-owned companies Trakya Elektrik (Enron) and Doga Enerji (Edison Mission), and U.K.-Japanese owned Uni-Mar. As the BOT companies had anticipated (reftel), the purpose of the meeting was to ask the companies to cut their electricity prices. Representatives from all three projects told econoff that Minister Guler's basic message was: "We think your tariffs -- and your profits -- are too high. The contracts are onerous and unfair. You have already earned a profit; therefore, even if you don't earn another cent on this project it will have been profitable for your company. Turkey is suffering from these contracts and we ask that your company make a "gesture" to make the contracts more fair."

3. (C) Two company representatives told econoff the Minister went so far as to make what they considered to be veiled threats if they did not make a "gesture." Guler noted that the companies still needed to obtain operating licenses from the Energy Market Regulatory Authority (EMRA), and he "was not sure how difficult that would be." The Minister reportedly also stated that there was pressure for him to open an investigation on these contracts, which he "hoped he would not have to do." Company reps said that, although they did not respond to these comments during their meeting, they were one hundred percent confident that their contracts -- which had reviewed and approved by five GOT agencies -- were rock solid, had been awarded fairly, and met all international standards.

4. (C) Doga, Trakya, and Uni-Mar have all responded to the Minister's request in writing, informing him that they would not be able to comply with his request and they could not change the terms of the contract. One rep suggested to econoff that they had entered the meeting willing to be somewhat flexible, perhaps by decreasing the price by one cent per kilowatt hour (kWh). However, he said, it soon became clear that Minister Guler was looking for a cut in the range of 4-5 cents/kWh in the tariff, which was far beyond what was possible. One BOT rep had explained in the meeting that by cutting the tariff to that extent, the company could not meet its debt obligations. He said the Minister seemed to believe the companies could use past profits -- already paid out to shareholders as dividends -- to pay off lenders, and therefore earn no further profit on the project.

5. (C) Each of the BOT companies defends their tariff rates, which are currently in the range of 10-12 cents/kWh, with the following arguments:

-- The average electricity price through 2019/2020 (when the plants will transfer to the GOT) is actually a reasonable 6-7 cents/kWh, due to a stair-step pricing structure set out in the contracts.

-- The BOT companies entered the Turkish market in the early 1990,s, when risks were higher, power plant equipment construction costs were higher, and the cost of investment capital was greater.

-- The GOT cannot simply force contractual changes whenever it believes a company has earned too much profit.

16. (C) For now, the companies report, they have no intention in changing their position. Each of their contracts has a "buy-out" clause, under which the GOT can purchase the plants under certain conditions. Trakya and Doga reps have told econoff that, although it is not their preference, they could eventually enter into buyout negotiations with the Ministry of Energy.

17. (C) Comment: As noted reftel, AK has made cutting electricity prices a top priority; hence the pressure on the BOTs. However, high prices are not only a result of the BOT plants -- the high price BOTAS pays and charges for gas, inefficient distribution networks, and low bill collection rates are also important factors. Although we recognize the GOT,s right to try to renegotiate the BOT contracts, we oppose any effort to force contractual changes. Not only could such an effort result in legal questions, it would likely have a lasting, negative impact on the investment climate in Turkey. Post understands that an OPIC representative will meet with EMRA President Yusuf Gunay this week in Houston to discuss this issue; we will continue to follow up with GOT officials here. End comment.
PEARSON